

A. G. Contract No. KR93-2029-TRN  
JPA No.: 93-115  
ECS File No.: JPA 94-15  
Project: DE-032-1(5)/H2974 01C  
Section: SR-189/Target Range Rd.

**INTERGOVERNMENTAL AGREEMENT**  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF NOGALES

THIS AGREEMENT is entered into 26 January, 1994,  
pursuant to Arizona Revised Statutes, Sections 11-851 through  
11-954, as amended, between the STATE OF ARIZONA, acting by and  
through its DEPARTMENT OF TRANSPORTATION (the "State") and the  
CITY OF NOGALES, acting by and through its MAYOR and CITY  
COUNCIL (the "City").

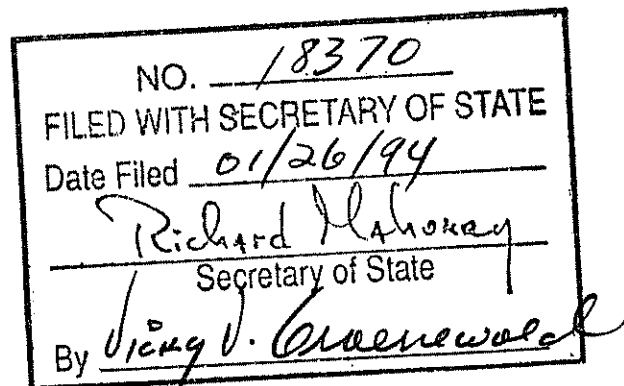
I. RECITALS

1. The State is empowered by Arizona Revised Statutes  
Section 28-108 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has delegated  
to the undersigned the authority to execute this agreement on  
behalf of the State.

2. The City is empowered by Arizona Revised Statutes  
Section 48-572 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has  
authorized the undersigned to execute this agreement on behalf  
of the City.

3. Incident to an improvement project on SR-189  
contemplated by the State in the City, it is necessary to  
realign the intersection of SR-189 and Target Range Road,  
hereinafter referred to as the Project.

THEREFORE, in consideration of the mutual agreements expressed  
herein, it is agreed as follows:



## II. SCOPE OF WORK

### 1. The State will:

a. Provide to State standards design plans, specifications, legals descriptions, right-of-way plans and such other documents and services required for construction bidding and construction. Incorporate City review comments as appropriate.

b. Call for bids and award one or more construction contracts for the Project. Administer same and make all payments to the contractor(s). Be responsible for any contractor claims for extra compensation.

c. Upon completion, approve and accept the Project on behalf of the parties hereto and provide maintenance within the State right-of-way.

### 2. The City will:

a. Acquire any additional required rights-of-way and convey it to the State at no cost. Obtain any necessary temporary construction easements required for the Project.

b. Upon completion and acceptance by the State, provide maintenance outside the State right-of-way.

## III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

City of Nogales  
City Administrator  
777 North Grand Avenue  
Nogales, AZ 85621


7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

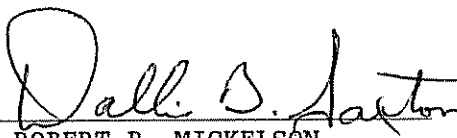
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**CITY OF NOGALES**

**STATE OF ARIZONA**

Department of Transportation

By   
JOSE L. CANCHOLA  
Mayor

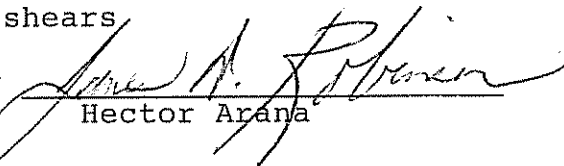
By   
ROBERT P. MICKELSON  
for Deputy State Engineer

APPROVED AS TO FORM:

ATTEST

OFFICE OF THE CITY ATTORNEY  
O'Connor, Cavanagh, Anderson  
Westover, Killingsworth &  
Beshears

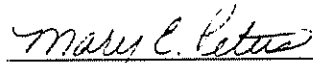
By   
FERNANDO CASTRO  
City Clerk

By   
Hector Arana

RESOLUTION

BE IT RESOLVED on this 13th day of August 1993, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Nogales for the purpose of defining responsibilities for the design and construction of improvements to SR-189 at the intersection of Target Range Road in the City.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.



LARRY S. BONINE  
Director

RESOLUTION NO. 93-10-45\_

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE CITY OF NOGALES (A.G. CONTRACT NO. KR93-2029-TRN) FOR COOPERATION IN AN IMPROVEMENT PROJECT FOR THE REALIGNMENT OF INTERSECTION SR-189 AND TARGET RANGE ROAD; AND DECLARING AN EMERGENCY

RECITALS

WHEREAS, the City of Nogales (City) and the State of Arizona (State) desire to cooperate for the realignment of intersection SR-189 and Target Range Road (hereinafter referred to as "Project"); and

WHEREAS, City is empowered by A.R.S. §48-572 to enter into an Intergovernmental Agreement by Resolution; and

WHEREAS, the parties hereto desire to cooperate in the Project all as is more fully set forth in the attached Intergovernmental Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF NOGALES:

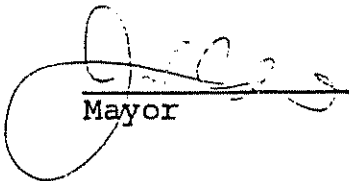
That the Mayor be and hereby is authorized to execute said Intergovernmental Agreement, and that City staff be directed to do all acts necessary in accordance with the provisions of the Intergovernmental Agreement.

WHEREAS, the preservation of the public peace, health, and safety of the City of Nogales require that this resolution shall become immediately operative,

AN EMERGENCY IS HEREBY DECLARED TO EXIST, and this resolution is hereby exempted from the referendum provisions of the Charter of the City of Nogales and shall take effect and be in full force from and after its passage and approval.

PASSED AND ADOPTED this 7th day of October, 1993.

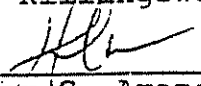
APPROVED this 7th day of October, 1993.

  
\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

Office of the City Attorney  
O'Connor, Cavanagh, Anderson,  
Westover, Killingsworth, & Beshears

By

  
Hector G. Arana

ATTEST:

  
City Clerk

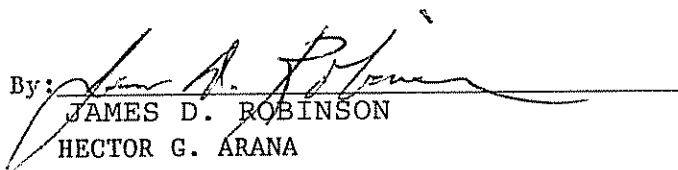
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JPA 93-115

APPROVAL OF THE NOGALES CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF NOGALES and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 14 day of January, 1994.

By:   
JAMES D. ROBINSON  
HECTOR G. ARANA

Office of the City Attorney

O'Connor, Cavanagh, Anderson, Westover,  
Killingsworth, & Beshears



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS  
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025  
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A. G. Contract No. KR93-2029-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 20<sup>th</sup> day of January, 1994.

GRANT WOODS  
Attorney General

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:lsr  
8365G